

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DIOMINA ASTO,

Plaintiff,

-against-

THERESA R. BETTER and ROBERTO BETTER,

Defendants.  
-----X

FILED  
U.S. DISTRICT COURT  
S.D. OF N.Y.  
2007 JUN -5 P  
NOTICE OF REMOVAL

07 CIV. 4787

WP4

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK:**

This Notice of Removal of defendants, THERESA R. BETTER and ROBERTO BETTER, for the removal of the above-captioned case from the Supreme Court of the State of New York, County of Bronx to the United States District Court for the Southern District of New York, respectfully states the following:

1. On or about January 25, 2007, an action was allegedly commenced against petitioners in the Supreme Court of the State of New York, County of Bronx entitled Diomina Asto against Theresa R. Better and Roberto Better by filing of the above pleadings with the clerk of the court. A copy of the summons and complaint is annexed hereto as Exhibit "A" and constitutes all the process, pleadings and other orders served upon the petitioners in this action.

2. Plaintiff's cause of action against defendants is civil in nature and the District Courts of the United States have been given original jurisdiction pursuant to 28 U.S.C. 1332(a)(1) because the amount in controversy allegedly exceeds \$75,000 exclusive of interests and costs and this action is between citizens of different states.

3. That the defendants may remove the state action to the United States District Court for the Southern District of New York since the Southern District embraces Bronx County, the jurisdiction where the action is pending, pursuant to 28 U.S.C. 1441(a).

4. According to the verified complaint, plaintiff is a resident of the State of Connecticut and the defendants Theresa R. Better and Roberto Better are residents of the State of Florida. Diversity of citizenship exists in this action as defined by 28 U.S.C. 1332(a)(1). Upon information and belief, Plaintiff herein seeks monetary damages in excess of \$75,000 exclusive of interests and costs, based upon the claims in the complaint that plaintiff was caused to suffer "serious, severe and permanent personal injuries".

5. In accordance with Local Rule 81.1, plaintiff Diomina Asto is a citizen of the State of Connecticut and resides, upon information and belief, as alleged in the complaint, in Fairfield County, Connecticut and defendants Theresa R. Better and Roberto Better reside at 459 SW Lakota Avenue, Port St. Lucie, Florida.

6. Upon information and belief, the initial pleadings in this action was served on or about May 15, 2007. This petition is timely within the meaning of 28 U.S.C. 1446(b).

7. That promptly after filing this notice of removal the defendants shall give written notice of the removal to the plaintiff through her attorney of record in the state action and to the clerk of the court of the state action as required by 28 U.S.C. 1446(d).

THAT, this Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

**WHEREFORE**, petitioners pray that the above action now pending against them in the Supreme Court of the State of New York, Bronx County be removed to the United States District Court for the Southern District of New York.

DATED: White Plains, New York  
June 4, 2007

Respectfully Submitted,

LAW OFFICE OF THOMAS K. MOORE

By:   
BRIAN J. POWERS (BP-1992)

Attorneys for Defendants  
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